

## 21 C.J.S. Courts § 169

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### Courts

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### V. Rules of Practice and Procedure

#### B. Operation and Effect of Court Rules

# § 169. Conflict between court rule and statute

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

- West's Key Number Digest, [Courts](#)  85, 85(1), 85(4)

**Generally, if a certain matter that is the subject of both a statute and a court rule is substantive in nature, the statute will control, but the court rule controls if the matter is procedural.**

Rules of procedure are not necessarily subordinate to the provisions of state statutes.<sup>1</sup> If a conflict exists between a general court rule and a statute, the court rule may prevail<sup>2</sup> even over later enacted statutory procedures<sup>3</sup> but must yield if it contravenes a constitutionally valid statute.<sup>4</sup> The statute will control if a certain matter is the subject of both a statute and a rule that is substantive,<sup>5</sup> and the rule will control only if the matter is procedural.<sup>6</sup> If there is no distinct conflict between a statute and a rule, the court will apply the rule unless the purpose of the statute would be so frustrated that the rule and the statute must be deemed inconsistent.<sup>7</sup>


A legislature is empowered to enact procedural rules that do not conflict with the rulemaking power of a supreme court.<sup>8</sup> The rule that supreme court rules remain supreme when in conflict with legislation enacted by the legislature has an exception when the statutory rule is based upon a fixed public policy that has been legislatively or constitutionally adopted and has as its basis something other than court administration.<sup>9</sup> Generally, statutes governing appeals are given deference only to the extent to which they are compatible with a supreme court's rules; conflicts that compromise those rules are resolved with the rules remaining supreme.<sup>10</sup> For example, a court rule stating a 30-day period to appeal to the circuit court from a county court supersedes a statute that provides a six-month period to appeal where the legislature has no reason to provide a six-month period to appeal from a county court order.<sup>11</sup> A state court rule is presumed valid in the face of a potentially conflicting federal law.<sup>12</sup>

Responsibility over the administrative aspects of court-related functions is shared between the legislative and judicial branches; therefore, when a court rule and a statute conflict, the supreme court will try to read the two provisions in such a way that they can

be harmonized,<sup>13</sup> and thus, both should be given effect if possible<sup>14</sup> since courts disfavor repeal by implication.<sup>15</sup> Inability to harmonize a court rule with a statute occurs only when the statute directly and unavoidably conflicts with the court rule.<sup>16</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The legislature may properly enact statutory procedures that supplement, rather than conflict with, rules that the Supreme Court has promulgated, but in the event of irreconcilable conflict between a procedural statute and a rule, the rule prevails. *Ariz. Const. art. 6, § 5(5)*.  *Duff v. Lee*, 476 P.3d 315 (Ariz. 2020).









To the extent there is any direct and inevitable conflict between a court rule and a statute, the statute controls. *State v. Gomes*, 253 N.J. 6, 288 A.3d 825 (2023).

Although statutorily-enacted rules of procedure which supplement the rules the Supreme Court has promulgated may remain in effect until superseded or amended by the Court, a court-promulgated procedural rule prevails in a conflict with a legislatively-enacted rule of procedure. *N.D. Const. art. 6, § 3. Gomm v. Winterfeldt*, 2022 ND 172, 980 N.W.2d 204 (N.D. 2022).

## [END OF SUPPLEMENT]

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## Footnotes

- 1 Utah— *Maxfield v. Gary Herbert*, 2012 UT 44, 284 P.3d 647 (Utah 2012).
- 2 Ind.— *Ritchie v. State*, 809 N.E.2d 258 (Ind. 2004).  
Kan.— *State v. Reese*, 300 Kan. 650, 333 P.3d 149 (2014).  
Miss.— *Brown v. Collections, Inc.*, 2016 WL 743814 (Miss. 2016).  
Nev.— *State v. Second Judicial Dist. Court ex rel. County of Washoe*, 116 Nev. 953, 11 P.3d 1209 (2000).  
R.I.— *Heal v. Heal*, 762 A.2d 463 (R.I. 2000).  
Va.—*State ex rel. Games-Neely v. Sanders*, 211 W. Va. 297, 565 S.E.2d 419 (2002).  
Wash.— *Washington State Council of County and City Employees, Council 2, AFSCME, AFL-CIO, Local 87 v. Hahn*, 151 Wash. 2d 163, 86 P.3d 774 (2004).  
**Rule governing impeachment by prior crimes controls over conflicting statute**  
Md.— *Conyers v. State*, 354 Md. 132, 729 A.2d 910 (1999).

3 Ohio— *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451, 1999-Ohio-123, 715 N.E.2d 1062 (1999).

4 Cal.— *Hess v. Ford Motor Co.*, 27 Cal. 4th 516, 117 Cal. Rptr. 2d 220, 41 P.3d 46 (2002).

Okla.—*State ex rel. Oklahoma Bd. of Medical Licensure and Supervision v. Pinaroc*, 2002 OK 20, 46 P.3d 114 (Okla. 2002).

Tenn.—*Memphis Planned Parenthood, Inc. v. Sundquist*, 175 F.3d 456, 1999 FED App. 0162P (6th Cir. 1999).

#### Statute controls over Practice Book section

Conn.— *Simms v. Warden*, 229 Conn. 178, 640 A.2d 601 (1994).

#### Rule passed after statute

When a rule of procedure conflicts with a statute, the statute prevails unless the rule has been passed after the statute and repeals the statute as provided under a provision governing a supreme court's rulemaking.

Tex.—*Johnstone v. State*, 22 S.W.3d 408 (Tex. 2000).

#### Statute passed after rule

A statute passed after the effective date of a federal rule repeals the rule to the extent that it actually conflicts.

U.S.— *Hubbard v. Haley*, 262 F.3d 1194, 50 Fed. R. Serv. 3d 895 (11th Cir. 2001).

5 Ariz.—*Albano v. Shea Homes Ltd. Partnership*, 227 Ariz. 121, 254 P.3d 360 (2011).

Colo.—*Sherman v. City of Colorado Springs Planning Com'n*, 729 P.2d 1014 (Colo. App. 1986), judgment aff'd on other grounds,  763 P.2d 292 (Colo. 1988).

Fla.—*L. H. v. State*, 408 So. 2d 1039 (Fla. 1982).

Ohio— *State v. Slatter*, 66 Ohio St. 2d 452, 20 Ohio Op. 3d 383, 423 N.E.2d 100 (1981).

6 U.S.— *Schuler v. U.S.*, 113 F.R.D. 518 (W.D. Mich. 1986).

Mo.— *State v. Jaco*, 156 S.W.3d 775 (Mo. 2005).


Ohio— *State ex rel. Boylen v. Harmon*, 107 Ohio St. 3d 370, 2006-Ohio-7, 839 N.E.2d 934 (2006).

#### Criminal procedure









(1) In matters of procedure rather than substantive rights, the rules of criminal procedure take precedence over statutes to the extent that there is any inconsistency.

Minn.— *Santiago v. State*, 644 N.W.2d 425 (Minn. 2002).

Va.— *State v. Arbaugh*, 215 W. Va. 132, 595 S.E.2d 289 (2004).

(2) The constitution will prevail over a contradictory rule of criminal procedure;  *Smith v. Leis*, 106 Ohio St. 3d 309, 2005-Ohio-5125, 835 N.E.2d 5 (2005).

7 Minn.—*In re Civil Commitment of Lonergan*, 811 N.W.2d 635 (Minn. 2012).

- 8 Idaho— *Osmunson v. State*, 135 Idaho 292, 17 P.3d 236, 150 Ed. Law Rep. 950 (2000).
- 9 Ark.—*Price v. Price*, 341 Ark. 311, 16 S.W.3d 248 (2000).
- Mich.— *McDougall v. Schanz*, 461 Mich. 15, 597 N.W.2d 148 (1999).
- 10 Ark.—*Citizens for a Safer Carroll County v. Epley*, 338 Ark. 61, 991 S.W.2d 562 (1999).
- 11 Ark.—*Pike Ave. Development Co. v. Pulaski County*, 343 Ark. 338, 37 S.W.3d 177 (2001).
- 12 Alaska—*Catalina Yachts v. Pierce*, 105 P.3d 125 (Alaska 2005).
- 13 Ill.— *Burger v. Lutheran General Hosp.*, 198 Ill. 2d 21, 259 Ill. Dec. 753, 759 N.E.2d 533 (2001).
- N.J.— *State v. Rue*, 175 N.J. 1, 811 A.2d 425 (2002).
- Tex.—*In re CompleteRx, Ltd.*, 366 S.W.3d 318 (Tex. App. Tyler 2012).
- Wash.— *Washington State Council of County and City Employees, Council 2, AFSCME, AFL-CIO, Local 87 v. Hahn*, 151 Wash. 2d 163, 86 P.3d 774 (2004).
- 14 Mass.— *Golden v. General Builders Supply LLC*, 441 Mass. 652, 807 N.E.2d 822 (2004).
- Nev.— *Albios v. Horizon Communities, Inc.*, 122 Nev. 409, 132 P.3d 1022 (2006).
- 15 Haw.—*In re Doe*, 109 Haw. 399, 126 P.3d 1086 (2006), as corrected, (Jan. 27, 2006).
- 16 Wash.— *Washington State Council of County and City Employees, Council 2, AFSCME, AFL-CIO, Local 87 v. Hahn*, 151 Wash. 2d 163, 86 P.3d 774 (2004).